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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)	CASE NO 14-00337 CRB
13 Plaintiff,)	
14 v.)	UNITED STATES' REPLY TO DEFENDANT'S
)	SENTENCING MEMORANDUM
15 BOBBY NAPIER,)	Hearing Date: June 20, 2017
16 Defendant.)	Court: The Honorable Charles R. Breyer
)	Time: 1:30 PM
17)	

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19 The government opposes defendant's request (1) for a continuance of his sentencing date so that
20 he can obtain plea agreements from other cases, and (2) for an order that the government produce sealed
21 plea agreements.

22 In his Sentencing Memorandum, defendant requests a continuance of the sentencing date so that
23 "he can obtain the plea agreements for similarly situated defendants in other 'airport' cases, and that the
24 government, pursuant to discovery requirements of Fed. R. Crim. P. 16 and *Brady*, be ordered to
25 produce all plea agreements for 'airport' defendants to Mr. Napier's counsel." Dkt. 57 at 1-2.
26 Defendant contends that the Court should order the government to provide the plea agreements so that
27 he can make arguments regarding sentencing disparities. *Id.* at 6.

28 As background, in addition to this case, this Court is presiding over cases in which TSA agents

1 allowed drugs to pass through security. These cases are: (1) *United States v. Ramirez, Sunux, and Lopez*
2 (15-567 CRB), (2) *United States v. Scott, Scott, and Castaneda* (15-514 CRB), and (3) *United States v.*
3 *Beckham* (16-175 CRB). Defendant Napier is the first defendant set for sentencing in the cases before
4 this Court. In addition, the Honorable Judge Tigar sentenced a TSA defendant who smuggled marijuana
5 to 21 months in prison in *USA v. Clark*, (15-581 JST).

6 Many of the plea agreements in the above cases are sealed. Those that are not sealed are
7 publicly available through the Clerk's Office and the government has provided them to defendant.¹ To
8 date, in the above cases, the court has sentenced only one defendant. Judge Tigar sentenced defendant
9 Clark to 21 months in prison for smuggling marijuana.

10 The Court should not order the government to provide the sealed plea agreements, and should
11 not continue the sentencing date.

12 First, plea agreements from defendants in other "airport" cases do not advance any argument
13 under 18 U.S.C. § 3553(a)(6). The plea agreements, sealed and unsealed, do not give rise to a
14 sentencing disparity argument, particularly in cases where sentencing has not happened.

15 Second, even if the plea agreements were relevant or discoverable, defendant waived his right to
16 discovery in his plea agreement. Dkt. 49 ¶ 3.

17 For these reasons, the Court should not continue the sentencing date or order the government to produce
18 sealed plea agreements.

19 Dated: June 16, 2017

Respectfully submitted,

20 BRIAN J. STRETCH
21 United States Attorney

22 _____/s/_____
23 LAURA VARTAIN HORN
24 Assistant United States Attorney

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¹ The government will not provide copies of the sealed plea agreements.